

*Legal Decisions
(Memo of Law)*

OGC HAS REVIEWED. 9 February 1948

MEMORANDUM FOR EXECUTIVE FOR A & M

SUBJECT: Proposed Administrative Instruction
for Meritorious Suggestions Awards.

1. It is felt that corrections to the proposed administrative instruction indicated below be considered particularly for the following reasons:

- (a) Sufficient weight does not seem to be laid on the fact that the meritorious suggestions are primarily those which will result in economy and over-all monetary saving.
- (b) There is nothing in Public Law 600 or Executive Order 9817 which will permit in-grade promotions for meritorious suggestions.
- (c) The question should be raised as to whether the Awards Committee may make the awards or merely serve in an advisory capacity to the Director for this purpose.

2. It is suggested that the first sentence of paragraph 1(a) might preferably read:

"In the interest of making continual improvement or economy in the operations of CIA . . ."

This follows the language of Executive Order 9817. The use of the word "management" is questioned, particularly as paragraph 4 of the proposed instruction specifically declares ineligible those having the assigned responsibility for the improvement of management.

3. The Committee appointed in paragraph 1(a) is called by two different names within the paragraph. It would seem preferable if one name could be agreed on -- such as "CIA Meritorious Awards Committee" or "CIA Meritorious Suggestions Awards Committee". The mere calling of the Committee the

- 2 -

"CIA Awards Committee" might raise an erroneous picture of its jurisdiction by an indication that it handle all awards for the Agency, including military.

4. Paragraph 1(a) of the proposed directive, in referring to the Committee membership, states that "These officers of the Committee may designate alternates. . . ." As there is only one officer -- the Chairman -- perhaps he alone should designate alternates to the Committee. Otherwise, this sentence should read, "The Members of the Committee may designate alternates. . . ."

5. Section 14 of Public Law 600 rests the authority to pay cash awards for meritorious suggestions in "the head of each department". For his guidance in the making of these awards, Section 2 of Executive Order 9817 establishes a monetary scale for payments commensurate with the amount of savings. This scale must be followed unless "for special reasons the head of the department shall determine . . . that a different amount is justified". It would appear, therefore, that the Director must pass on the amount of the award for a meritorious suggestion which is adopted solely or primarily because of monetary saving.

The Executive Order places the burden of passing on suggestions "in the judgment of the department head or other duly authorized authority in the department. . . ." In view of this language, it is concluded that the Committee may pass on suggestions as the duly authorized authority in the Agency, and recommend as to the size of the award. However, their decision should be considered advisory only, and the monetary award should have the final approval of the Director in compliance with the terms of the Executive Order. It is recommended that this be complied with, as the General Accounting Office might, at some future date, raise the question as to who authorized the expenditure of funds in this connection.

It should be noted further that when a suggestion is adopted primarily upon the basis of improvement in operations or services rather than for reasons of economy, "the department shall determine the amount of the award. . . ." As this section (Section 3) of the Executive Order is not qualified by any table of minimum or maximum awards, the Committee may make the final determination of the award to be granted, subject to the statutory limitation that no one award shall exceed \$1,000.

- 3 -

6. After the phrase "79th Congress" in line 2 paragraph 2 of the original draft, suggest the addition in parenthesis of the phrase "(5 U.S.C.A. 116a)" for quick reference, as this is the standard legal form of citation.

It would again appear preferable in the conclusion of the second sentence of paragraph 2 to use the language of the Executive Order by revising to read, "suggestions for improvement or economy in the operations of D.I.A." The emphasis on suggestions for economy should be stressed.

7. It would seem preferable to follow more closely the language of the Executive Order in setting forth the awards authorized in paragraph 3. The proposed text in paragraph 3 (a)(1) does not point out clearly that this type of award is based on a suggestion that is adopted solely or primarily because it will result in monetary saving. It is suggested that paragraph 3 be revised to read as follows:

"3. AWARDS AUTHORIZED.

(a) The following awards are authorized for a meritorious suggestion which is adopted solely or primarily because it will result or has resulted in the saving of money. The amount of the award shall be based on the amount of the annual estimated saving in the first year of operation in accordance with the following table, unless, for special reasons, the Director shall determine, subject to certain statutory limitations, that a different amount is justified:

<u>SAVINGS</u>	<u>AWARDS</u>
\$1 -- \$1,000 -----	\$10 for each \$200 of savings with a minimum of \$10 for any adopted suggestion.
\$1,000 -- \$10,000 -----	\$50 for the first \$1,000 of savings, and \$25 for each additional \$1,000 of savings.
\$10,000 -- \$100,000 -----	\$275 for the first \$10,000 of savings, and \$50 for each additional \$10,000 of savings.
\$100,000 or more -----	\$725 for the first \$100,000 of savings, and \$100 for each additional \$100,000 of savings; provided that (with the exception of the War and Navy Departments) the maximum award for any one suggestion shall not exceed \$1,000."

- 4 -

It is indicated in the proposed revision of paragraph 3(a) and in accordance with the Executive Order that the monetary basis for the award depends on the amount of estimated saving in the first year of operation under the meritorious suggestion. In addition, the original draft should be corrected as proposed above so that the monetary sums correspond with those set out in the Executive Order.

8. Paragraph 3 (a)(2) of the original draft should be eliminated. There is nothing either in Public Law 600 or Executive Order 9817 which permits special within-grade salary increases for meritorious suggestions. The foundation for these increases are based on another law and should be properly the subject of a separate administrative instruction.

Following paragraph 3(a), as proposed above, the following should appear:

"(b). When a suggestion is adopted primarily upon the basis of improvement in the operations or services of C.I.A., the Agency shall determine the amount of the award commensurate with the benefits anticipated from the suggestion. The amount of any one award shall not exceed \$1,000.

"(c). Certificates, medals, or other emblems may be awarded by C.I.A. in honorary recognition of service which the Director determines to be exceptional or meritorious."

9. It is suggested that the original draft of paragraph 4 be reconsidered so as to include possible awards for those having specific responsibility for management improvement. Personnel in the management staff might suggest operational changes which exceed the normal requirements of the duties of their position or might produce a suggestion of such merit that the Director, in accordance with the terms of the Executive Order, might report it to the Director of the Bureau of the Budget for dissemination to all departments of the Government on the basis that the suggestion would benefit the Government service generally. The Law and Executive Order provide these awards for "any civilian officer or employee of a department", and consideration should therefore be given to the possible participation of those who have management responsibilities who might make suggestions in fields other than management. This is particularly true in an Agency such as C.I.A. where the line between management and operations may in some instances be quite clearly drawn.

- 5 -

10. It is suggested that paragraph 5 of the original draft be revised to read as follows:

"5. EASIS FOR AWARD. Awards will be considered by the C.I.A. Meritorious Suggestions Awards Committee where in the opinion of the Committee the meritorious suggestion has resulted or will result in improvement or economy in the operations of the Agency by way of monetary savings, increased efficiency, conservation of property, improved employee-working conditions, better service to the public, or otherwise.

"In order to have the meritorious suggestion considered for an award, the suggestion must have been adopted for use in the Agency.

"No award shall be paid for any suggestion not adopted for use within five (5) years from the date the suggestion is received by the Agency.

"No award shall be paid to any officer or employee of C.I.A. for any suggestion which represents a part of the normal requirements of the duties of his position."

It should be noted, in connection with the five-year limitation set forth above, that the Agency may, in its discretion, change the period to one or less than five years. It is therefore suggested that the Executive for A & M determine the period which he considers appropriate should he deem five years to be too long.

11. The following paragraph should be included in the instruction, possibly as a new paragraph 6, with the old paragraphs 6 and 7 renumbered to 7 and 8:

"6. The cash award for a meritorious suggestion shall be in addition to the regular compensation of the recipient, and the acceptance of such cash award shall constitute an agreement that the use by the United States of the suggestion for which the award is made shall not form the basis of a further claim of any nature upon the United States by the recipient, his heirs or assigns."

- 6 -

12. In order to conform to the terms of the Executive Order, the original paragraph 6 (a)(4) should be revised to read:

"(4). A detailed description of the suggestion with a statement of the actual saving of money which will result or has resulted in the first year of its operation."

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